IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

CHARLES ROBERTS, an individual, and KENNETH MCKAY, an individual, on behalf of themselves and others similarly situated, Plaintiffs, v. C.R. ENGLAND, INC., a Utah corporation; OPPORTUNITY LEASING, INC., a Utah corporation; and HORIZON TRUCK SALES AND LEASING, LLC, a Utah Limited Liability Corporation, Defendants.	**MEMORANDUM DECISION & ORDER** Case No. 2:12-CV-00302 Judge Robert J. Shelby Magistrate Judge Brooke C. Wells

On November 13, 2017, Magistrate Judge Wells granted in part Defendants' request to take absent class member depositions, and ordered Defendants to "propose a statistically significant sample size based on the work of an expert in this case."[1] Defendants submitted the Declaration of Ted Tatos, which includes a sample size analysis and states that a sample size of 96 drivers in this case would fall within "commonly accepted precision and confidence levels."[2] Plaintiffs objected to Magistrate Judge Wells's Order,[3] and the court ordered Defendants to respond to Plaintiffs' Objection.[4]

Plaintiff Kenneth McKay, individually and on behalf of all others similarly situated ("Plaintiffs"), filed a Motion to Stay Further Consideration of Defendants' Motion for Approval

[1] Dkt. 405, p. 12.
[2] Dkt. 432-1 ¶ 28 ("Submission Pursuant to Order").
[3] Dkt. 410.
[4] Dkt. 438.

to Depose Absent Class Members.[5] Plaintiffs' Motion is well-taken. The court stays further consideration of Defendants' Motion seeking leave to take absent class member depositions[6] and Defendants' Submission Pursuant to Order,[7] pending resolution of Plaintiffs' Objection in the first instance.[8]

Plaintiffs ask the court in the alternative for leave to respond to Defendants' Submission Pursuant to the Order regarding the appropriate number of absent class member depositions. The request is DENIED without prejudice to seek leave once Plaintiffs' Objection is resolved.

Based upon the foregoing, Plaintiffs' Motion to Stay Further Consideration of Defendants' Motion for Approval to Depose Absent Class Members Pending Consideration of Objection[9] is GRANTED in part, and DENIED in part without prejudice.

SO ORDERED this 22nd day of February, 2018.

BY THE COURT:

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ROBERT J. SHELBY

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[5] Dkt. 440.
[6] Dkt. 335.
[7] Dkt. 432-1.
[8] Dkt. 410.
[9] Dkt. 440.